

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Dov Levavi	Team: Team # 4	CCRB Case #: 201308034	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 08/12/2013 9:30 PM	Location of Incident: 700 Exterior Street	Precinct: 44	18 Mo. SOL 2/12/2015	EO SOL 2/12/2015	
Date/Time CV Reported Wed, 08/21/2013 12:22 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 08/30/2013 1:38 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kimm Cruse	11030	929966	044 PCT
2. POM Ronald Taylor	14688	924544	PROPCLK

Officer(s)	Allegation	Investigator Recommendation
A.POM Kimm Cruse	Abuse: PO Kimm Cruse seized § 87(2)(b) s property.	
B.POM Ronald Taylor	Force: PO Ronald Taylor used physical force against § 87(2)(b)	
C.POM Ronald Taylor	Force: PO Ronald Taylor used a chokehold against § 87(2)(b)	
D.POM Ronald Taylor	Force: PO Ronald Taylor hit § 87(2)(b) against a wall.	

Case Summary

On August 21, 2013, § 87(2)(b) a § 87(2)(b) employee, called the IAB command center to report this incident, which she had observed on video (encl. b2). A referral to the CCRB was received on August 30, 2013. At approximately 8:00 p.m. on August 12, 2013, § 87(2)(b) was inside a Target retail store located at 700 Exterior Street in the Bronx. § 87(2)(b) was caught shoplifting by Target Asset Protection employees, identified as § 87(2)(b) and § 87(2)(b) § 87(2)(b) and an officer assigned to a paid detail identified as PO Erik Vecvagars, brought § 87(2)(b) to a holding cell inside the building and § 87(2)(b) was handcuffed to a bench inside the cell, where he remained for the next 90 minutes. At approximately 9:33 p.m., two officers from the 44th Precinct identified as PO Kimm Cruse and PO Ronald Taylor, arrived at the holding cell, removed the handcuffs attached to the bench, and rear-handcuffed § 87(2)(b) PO Cruse stood in an adjacent room while PO Taylor remained in the holding cell with § 87(2)(b) seated on the bench. § 87(2)(b) heard PO Cruse state that he was going to throw away § 87(2)(b) personal belongings and PO Cruse placed items that had been removed from § 87(2)(b) backpack and pockets into a trash bin (**Allegation A**). In response, § 87(2)(b) stood up and verbally protested. As § 87(2)(b) stood facing PO Taylor with his hands handcuffed behind his back, PO Taylor physically assaulted § 87(2)(b) striking him multiple times in the head, putting pressure on his neck, and slamming his head against the holding cell wall (**Allegations B-D**).

This case was originally assigned to Inv. Eva Vaillancourt, and was reassigned to ASI Dov Levavi for closure.

IAB Group 54 conducted an investigation into this incident. That investigation substantiated allegations of unnecessary force and assault against PO Taylor. Allegations of failure to safeguard property, failure to intervene, and failure to notify IAB were substantiated against PO Cruse. (encl. d22-25)

§ 87(2)(b)

On October 2, 2013, due to the DA's investigation into this incident, ADA Osman Abbasi formally requested that the CCRB refrain from interviewing any civilian or law enforcement witnesses (encl. a1). He confirmed the DA hold status when subsequently contacted. As a result, the CCRB conducted no interviews following § 87(2)(b) interview on October 2, 2013. Nonetheless, the investigation was able to reach findings regarding the allegations based on video evidence.

Video Footage

Booking Room (IA#48, encl. b15a)

At 8:01:15, § 87(2)(b) is brought rear-cuffed into the booking room by a white male officer, identified as PO Vecvagars, and accompanied by several individuals who appear to be Target employees. § 87(2)(b) is seated on a bench outside of the left holding cell. One of the Target employees takes hold of a red shopping cart filled with shopping bags that had been inside the room. Another employee carries in a single shopping bag and empties its contents onto the floor. The items from the bag appear to be store products. At 8:02:00, PO Vecvagars stands § 87(2)(b) up and searches his backpack. He removes several items, placing them on the bench. He then searches § 87(2)(b) pockets and places more items on the bench. One item is removed and placed on a desk to the right. One of the employees takes this item and

places it among the items he had spread on the floor. § 87(2)(b) is seated again next to the items on the bench and is photographed by a store employee.

At 8:06:10, § 87(2)(b) is brought into the left holding cell. At 8:08:30, two employees remove the red shopping cart from the booking room. Before they do so, the female employee points toward the items that remain on the bench, and then male employee puts his hand out as if to indicate those items should be kept as they are. At 8:10:22, PO Vecvagars enters the holding cell, removes § 87(2)(b) handcuffs, and re-handcuffs him to the bench inside the holding cell. At 8:13:00, PO Vecvagars returns to the holding cell, removes § 87(2)(b) backpack, searches him and re-handcuffs him to the bench. At 8:15:50, an employee photographs the items on the floor. At 8:30:20, an individual who appears to be a store security guard picks these items up from the floor and takes them out of the room.

At 9:30:50, PO Taylor and PO Cruse arrive in the booking room, then enter the holding cell and interact with § 87(2)(b). PO Vecvagars is no longer in the booking room.

At 9:33:33, after looking at documents on the desk, PO Cruse begins sorting through the items on the bench in the booking room. As he does so, § 87(2)(b) stands up in the holding cell and walks toward the doorway, at which point PO Taylor places his arm against § 87(2)(b) chest. PO Cruse enters the holding cell briefly, then returns to the bench and continues going through the items. He speaks to one of the Target employees and at 9:34:30, the employee moves a trash bin over to the bench. PO Cruse returns to the holding cell at 9:34:38 and observes PO Taylor striking and pushing § 87(2)(b) while standing behind PO Taylor. PO Cruse does not intervene.

At 9:35:19, PO Cruse returns to the bench and moves items from the bench into the trash bin. Meanwhile, PO Taylor is partially visible as he continues to use force against § 87(2)(b). PO Cruse returns again to the holding cell at 9:35:27 as the Target employee sweeps the remaining items on the bench into the trash bin before placing the bin against a wall on the right side of the room. PO Cruse moves back and forth several more times between the booking room and the holding cell and observes PO Taylor continue to strike § 87(2)(b) (as seen from the holding cell camera during the same time period). At 9:36:30, PO Cruse appears to speak and place his hand on PO Taylor, and both officers leave the holding cell with § 87(2)(b) before walking out of the booking room.

Holding Cell (encl.B14-15, IA#47/IA#121)

The video begins at 8:02:20 p.m., and shows a small room with nothing but a bench inside. § 87(2)(b) enters the holding room alone at 8:05:58. He is rear-cuffed and wearing a small red backpack. He sits quietly on the bench. At 8:10 p.m., he is un-handcuffed and chained to the bench by PO Vecvagars. PO Vecvagars also searches him and takes his backpack away; § 87(2)(b) then proceeds to try and sleep on the bench in various positions over the next hour and a half.

Two officers, identified as PO Taylor and PO Cruse, enter the room at 9:31:06 p.m. PO Cruse unchains § 87(2)(b) from the bench and rear-cuffs him. PO Cruse then leaves the room, while PO Taylor stands by the door. § 87(2)(b) is sitting quietly, and does not appear to be talking to PO Taylor.

At 9:33:35, § 87(2)(b) still rear-cuffed, suddenly gets up and walks toward PO Taylor. PO Taylor places his left hand on § 87(2)(b) chest and gently pushes him back one arm's-length. § 87(2)(b) continues to press forward, but does not make any sudden movements to shake off PO Taylor, and quickly steps back under PO Taylor's pressure. PO Cruse steps into the room. PO Taylor and § 87(2)(b) appear to be talking. With § 87(2)(b) left shoulder against the wall at 9:33:54, PO Cruse leaves the room. PO Taylor and § 87(2)(b) continue to talk, both seemingly calm; PO Taylor keeps his left hand on § 87(2)(b) chest until § 87(2)(b) leaves the room.

9:34:18. At that point, PO Taylor steps back. § 87(2)(b) takes one step toward PO Taylor, and PO Taylor, with his open right hand, then strikes § 87(2)(b) in the chin/neck area on the left side of his face, pushing him into the corner of the holding room. § 87(2)(b) recovers his balance and walks toward PO Taylor. PO Taylor strikes him again in the same part of the face, seemingly with the heel of his right hand. § 87(2)(b) reels under the contact, steadies himself, then takes a few more steps towards PO Taylor, who places his right hand on § 87(2)(b) neck and shoves him back. § 87(2)(b) walks toward PO Taylor. PO Taylor shoves him into the corner to the right of the door, again with an open hand in the neck/chin area. § 87(2)(b) takes another few steps toward PO Taylor, and the two stand facing each other, talking. They both appear to be calm.

At 9:34:55, PO Taylor appears to grab § 87(2)(b) by the left side of his neck and pushes him against the wall, maintaining contact with his neck. PO Taylor then places his left hand somewhere in § 87(2)(b) neck/chin area (the exact point of contact does not fall within the frame of the video). PO Taylor appears to lean on § 87(2)(b) as PO Cruse reappears at the holding cell door. PO Taylor turns to him and says something, gesturing towards § 87(2)(b). PO Cruse steps away and out of frame. At 9:35:07, § 87(2)(b) throws his left shoulder, seemingly to try and shake off PO Taylor's hold on him. PO Taylor then grabs § 87(2)(b) by the shoulders and begins to shove him into the wall repeatedly; the degree to which § 87(2)(b) is wrestling against PO Taylor's hold is unclear. At 9:35:14, PO Taylor holds § 87(2)(b) against the wall by his neck, using his left hand. PO Taylor puts his left foot forward and appears to be leaning into his hold on § 87(2)(b) neck. At 9:35:17, PO Taylor uses his right hand to slap § 87(2)(b) on the left side of his face; the exact point of contact is cut off by the frame. PO Taylor does not release § 87(2)(b) neck. At 9:35:19, PO Taylor strikes § 87(2)(b) again; again, the point of contact is off-camera, but § 87(2)(b) head jerks sharply to the left under the blow. At 9:35:21, PO Taylor strikes § 87(2)(b) for the third time. He still has yet to release his hold on § 87(2)(b) neck. At 9:35:28, after appearing to speak to § 87(2)(b) for a few seconds, PO Taylor strikes him again. At 9:35:34, PO Taylor strikes § 87(2)(b) for the fifth time. § 87(2)(b) doubles over under the force of impact, as PO Taylor throws what appears to be a closed-handed punch downward towards § 87(2)(b) now-inclined head. He follows with two uppercuts to the face. § 87(2)(b) is still bent over; his body jerks with the impact of each blow. At 9:35:38, someone holding a file appears at the holding-cell door, then quickly withdraws. PO Taylor, leaning into § 87(2)(b) shoulder, uses his right hand to chop upwards into § 87(2)(b) face. He makes three such slicing motions. Where the blows actually land cannot be seen. PO Taylor presses § 87(2)(b) right shoulder into the wall, then steps back and positions himself slightly behind him. § 87(2)(b) is still standing, still bending forward, still facing into the left-corner of the holding cell. PO Taylor grips § 87(2)(b) left shoulder with his left hand; PO Taylor's right hand cannot be seen, but it appears to be in the vicinity of § 87(2)(b) rear-cuffed hands. PO Taylor then shoves § 87(2)(b) into the wall he is facing. The top of § 87(2)(b) inclined head makes hard contact with the wall. § 87(2)(b) remains standing and begins to right himself, standing up straight. PO Taylor uses his left hand to strike him again in the chin/nose area. § 87(2)(b) head inclined again, leans against the cell wall. PO Taylor steps back and stands still, his hands by his side.

PO Cruse, with papers in his hand, appears at the holding cell door and touches PO Taylor lightly on the shoulder. PO Taylor slaps § 87(2)(b) again with his left hand; § 87(2)(b) flinches away, such that it is hard to gauge the force of the blow. As § 87(2)(b) slowly turns to face PO Taylor, PO Taylor slaps him once more, with his right hand this time. PO Cruse tentatively tries to get PO Taylor's attention. As § 87(2)(b) again bends over and leans into the corner of the holding cell, PO Taylor steps near and stands over him. At 9:36:01, PO Taylor uses what appears to be his left forearm to strike the left side of § 87(2)(b) head; the right side of his head hits the wall. At 9:36:04, § 87(2)(b) turns to face PO Taylor, who uses his left hand to hold § 87(2)(b) by the chin. At 9:36:06, his hand moves down to § 87(2)(b) neck; in this way, PO Taylor holds § 87(2)(b) against the wall. PO Taylor appears to be talking to § 87(2)(b).

At 9:36:14, PO Cruse touches PO Taylor on the shoulder again. PO Taylor makes a subtle move as if to shake him off. PO Taylor then uses his left hand to grab § 87(2)(b) by the collar and swing him into the cell wall to the right side of the holding cell door. § 87(2)(b) then walks out of the cell, followed by PO Cruse and PO Taylor, neither of whom are making contact with him.

Mediation and Criminal Histories

This case was not eligible for mediation. As a result of this incident, § 87(2)(b) pled guilty to harassment in the second degree and was sentenced to seven days' imprisonment (encl. f1). § 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

Civilian and Officer CCRB Histories

§ 87(2)(b) was the victim in two prior CCRB complaints (encl. a7):

- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)

PO Taylor has been a member of the NYPD for 15 years, and this is the first CCRB complaint in which he has been the subject of allegations (encl. a6).

PO Cruse has been a member of the NYPD for 12 years. He was the subject of six prior allegations, one of which (offensive language – sex) was substantiated with instructions recommended. (encl. a6a)

Medical Records

According to § 87(2)(b) medical records from § 87(2)(b), § 87(2)(b) complained of having been beaten by police. He was diagnosed with a nasal fracture, a ruptured left tympanic membrane, and contusions to the face, scalp, and neck. (encl. Medical Records Folder)

Findings and Recommendations

Allegation A – Abuse of Authority: PO Kimm Cruse seized § 87(2)(b) property.

Although § 87(2)(b) could not see what was happening with his personal belongings while he was inside the holding cell, he stated during his CCRB interview (encl. b9-10) that he heard PO Cruse say his property should be thrown away. According to § 87(2)(b) among his belongings when he first came into the store were two bags, his birth certificate and social security paperwork. When interviewed by IAB (encl. b5-7) § 87(2)(b) also noted that he had with him two Benefit cards, and he reiterated that he became upset when he was in the holding cell and he heard the officers discussing that they were going to throw his property out. He stated that he never received this property back after the incident and last observed the property with store security. Two NYPD property clerk invoices from this arrest, created on August 12 and 13, 2013 by PO Cruse, list the following property as being invoiced: a receipt, a photograph, sneakers, two cell phones and a battery (encl. d3a-d).

According to the Target incident report prepared by § 87(2)(b) regarding § 87(2)(b) shoplifting and the ensuing events (encl. b41-47), once § 87(2)(b) was placed in the holding cell, “Officer Cruz [sic] then proceeded to check the subject’s belongings [and] say ‘everything subject had was trash.’” § 87(2)(b) elaborated in his statement to IAB (encl. b39-40) that after searching § 87(2)(b) property, PO Cruse said, “All that is basically trash,” which prompted § 87(2)(b) to stand up, protest, and approach the holding cell doorway. PO Cruse restated that the items were “trash,” secured a cell phone and shoes in a bag, and

threw out the remaining items. § 87(2)(b) also stated to IAB (encl. b37-38) that he observed PO Cruse throw away a lighter and some paperwork belonging to § 87(2)(b)

PO Vecvagers stated to IAB (encl. c13-14) that he searched § 87(2)(b) in the booking room and recovered personal property, including several paper documents, which he secured in the room with the two Target employees. He left the booking room at 9:15 p.m.

Video footage from the booking room corroborates the sequence of events described by § 87(2)(b) and the witnesses. When PO Vecvagers first brings § 87(2)(b) into the booking room, he searches § 87(2)(b) separates items that appear to belong to the store, and places other items recovered from § 87(2)(b) backpack and pockets (including papers) on top of a bench. Later, after PO Taylor and PO Cruse arrive, § 87(2)(b) is seen sitting in the holding cell with no line of sight toward PO Cruse, then stands up as PO Cruse looks through his property. In the following minutes, PO Cruse moves back and forth between the holding cell, where he watches as PO Taylor assaults § 87(2)(b) and the booking room bench, where he guides § 87(2)(b) belongings into a trash bin with assistance from a Target employee. These items are not recovered from the trash bin before PO Cruse, PO Taylor and § 87(2)(b) exit the booking area.

Patrol Guide Procedure 218-01 directs police officers to properly record and process property coming into police custody. (encl. i-iii)

§ 87(2)(g)

Allegation B – Force: PO Ronald Taylor used physical force against § 87(2)(b)

Allegation C – Force: PO Ronald Taylor used a chokehold against § 87(2)(b)

Allegation D – Force: PO Ronald Taylor hit § 87(2)(b) against a wall.

§ 87(2)(g)

Patrol Guide Procedure 203-11 requires police officers to use minimum necessary force at the scene of a police incident, and the use of chokeholds—including any pressure to the throat or windpipe which may hinder breathing—is strictly forbidden. (encl. iv-v)

During the course of a period lasting more than two minutes, PO Taylor repeatedly § 87(2)(g) struck § 87(2)(b) placed pressure on the front of his neck, and hit him against a wall § 87(2)(g)

§ 87(2)(g)

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date